

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

DAISY MONTICH, individually and on behalf of all  
others similarly situated,

Plaintiff,

-against-

MIELE USA, INC.,

Defendant.

Civil Action No. 3:11-cv-02725-  
MAS-DEA

**DECLARATION OF ROLAND WEINGARTNER IN  
SUPPORT OF MOTION BY DEFENDANT MIELE USA, INC.  
TO DISMISS PLAINTIFF'S SECOND AMENDED COMPLAINT**

ROLAND WEINGARTNER, hereby declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am the Vice President of Technical Services for Miele USA, Inc. ("Miele"). I have held this position since approximately June 10, 2010.
2. I submit this declaration in support of Miele's Motion to Dismiss Plaintiff's Second Amended Complaint.
3. I have reviewed the Second Amended Complaint ("SAC") filed in this action.
4. Plaintiff alleges that she purchased a Miele front load washing machine "on or about July 27, 2007." (SAC ¶ 6.) Plaintiff also alleges that Miele provided an express warranty with its front load washing machines. (SAC ¶ 21.)
5. Attached to this Declaration as Exhibit A is the Miele warranty that was provided to customers who purchased Miele front load washing machines on or about July 27, 2007. I retrieved this document from Miele's files, where it is maintained in the ordinary course of business.

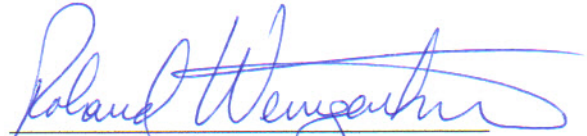
6. Plaintiff alleges that "starting around the summer of 2008 she began experiencing problems with her Miele washing machine, specifically the machine began to have a mildew/mold odor" (SAC ¶ 29), and that she contacted Miele "about this problem." (SAC ¶ 31.) Plaintiff also alleges that Miele "sent her a Descaler to run in the machine on an empty cycle to allegedly remediate the mold/mildew problem." (SAC ¶ 31.)

7. Attached to this Declaration as Exhibit B are the screen prints of the service history for Plaintiff's washing machine. I retrieved these screen prints from Miele's files, where they are maintained in the ordinary course of business.

8. The screen prints refer to a service order executed on October 28, 2010, a telephone inquiry received from the customer on April 7, 2011, a telephone inquiry received from the customer on April 15, 2011, a telephone inquiry received on September 21, 2011 which resulted in a service order executed on October 3, 2011 (on one screen print) and a service order executed on October 12, 2012.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: Princeton, New Jersey  
February 11, 2013



Roland Weingartner

# EXHIBIT A

# **LIMITED WARRANTY - RESIDENTIAL APPLIANCES USA**

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## **Limited Warranty For Residential Appliances**

### **What the Warranty covers and for what period the coverage extends**

Miele Inc. (hereinafter "Miele") warrants to the original purchaser of this product, living in the United States of America or Puerto Rico, who purchased their appliance from a Miele authorized distributor or dealer:

- a. that this product, including all of its Miele authorized accessories, is free of defects in material and workmanship.
- b. that this product, if found to be defective within the stated warranty period, will be repaired free of charge to the consumer (both parts and labor) by an authorized Miele service agent, provided the failure is reported directly to Miele.

The warranty period is one (1) year from the date of purchase. The warranty period will be extended an additional one (1) year if the product is properly installed and registered by an authorized Miele installer.

Residential appliances used for commercial purposes shall be warranted for a period of six (6) months from the date of purchase. Thereafter this Limited Warranty shall be null and void.

This warranty is only applicable while the product remains within the United States or Puerto Rico, and shall be null and void in any other US territories, possessions, or foreign countries.

### **What is not covered by this Warranty**

This warranty does not cover damage or defects caused by or resulting from repairs, service or alterations to the product or any of its parts or accessories which have been performed by service centers or repairmen not authorized by Miele, or damage or defects caused by negligence, improper installation, accident, abuse, misuse, or improper maintenance of the product, its parts or accessories. Ordinary wear and tear shall not be considered a defect in materials or workmanship.

### **Exclusion of Other Warranties**

Except for the limited warranty provided herein, Miele disclaims any and all other express warranties with respect to the product. Any warranty of merchantability or fitness for a particular purpose is limited in its duration to the term of the limited warranty provided herein.

Some states do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to you.

### **Limitation of Liability for Special, Incidental or Consequential Damages**

Miele specifically disclaims any and all liability, whether directly or by way of indemnity, for special incidental, consequential or other damages, whether based on breach of contract, tort, strict or product liability, or any other legal theory.

Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation may not apply to you.

### **Special State Laws**

This Limited Warranty gives you specific legal rights; you may have other rights, which vary, from state to state.

### **Service**

For service under this Limited Warranty, or for information you may need about the product, please contact Miele at the US address listed on the back of this booklet, or visit us at [www.miele.com](http://www.miele.com).

### **Authorized Miele Dealers**

To find an authorized Miele dealer in your area, please visit our website [www.miele.com](http://www.miele.com).

### **MieleCare Extended Service Contracts**

Please visit [www.store.miele.com](http://www.store.miele.com).

# EXHIBIT B

AMS - usaweir @ sys68.gtpkap68.de.miele.net - [Orders]

File Edit Object View Filter Options Window Help

(no filter active)

Miele US OrdNo 6800000020521 Type: Service Order Status: transferred | -

Overview Order Items Service Items Roles Log/Attachments History Errorlist Checklists Qualification Tasks

Order Nu... Ord... Prio... SR-Suman  
68000000... tran... no ... Montich

in Equipment(1) - 11484001USA W4840 LC Washer

Checklist Log Print

Product/Order	Type	Date	Status
W4840 LC Washer ...		7/3/2007	
68000000020526(1)	Service Or...	10/28/2010	transferred
68000000060722(1)	Enquiry Or...	4/7/2011	completed
68000000062830(1)	Enquiry Or...	4/15/2011	completed
68CP000002511	Residential	6/2/2011	processed

Product (No / No2)	11484001USA / W4840
description	W4840 LC Washer
Description	W4840 LC WASHER
type / group	- / Washing machines
serialNo. / purchase date	85458327 - 7/3/2007
equipment price	-
guarantee period	-
<b>Period</b>	<b>10/28/2010 - open</b>
Owner	CustNo: M3108133991 AmsCustNo: M3108133991
	Montich, Daisy
	4726 Deelane St -
	90503-2020 Torrance

in Equipment(1) - 11484001USA W4840 LC Washer ▼ ⌵ ⌵

Checklist Log Print

Product/Order	Typ	Date	Status
W4840 LC Washer 854...		7/3/2007	
6800000020526(1)	Service Order	10/28/2010	transfe...
6800000060722(1)	Enquiry Order	4/7/2011	comple...
6800000062830(1)	Enquiry Order	4/15/2011	comple...
68CP000002511	Residential	6/2/2011	proces...

<b>Order</b>	
Type / OrdNo / ExtOrdNo	Service Order / 6800000020526 / -
Status / MatStat / InvStatus	transferred / - / open
InvType / InvSubType / Price	4 - To be invoiced / 0001 - Repair / 0.00 USD
Created / Closed / InvDate	10/28/2010 / - / -
InvNo / InvNoRef / OrdNoRef	6800020506 / - / -
<b>Next activity</b>	
Mobile User	SB - Waiting for execution / wait for reply
<b>Error Description</b>	
Sym1	1 - Function
Sym2	6 - No water intake
FaultCode	F63 - Water path control unit fault
Condition	
Add. Info	faults at rinse
<b>Product</b>	
ArtNo / ModelNo	11484001USA / W4840
ModelDesc	W4840 LC Washer
Rem	W4840 LC WASHER
PGrp / PType	Washing machines / -
SerialNo	85458327
PurchDate	7/3/2007
<b>Activities completed</b>	
<b>Engineer</b>	
name / User	Jesse Bean / SP00104
Order start date / transferred	10/28/2010 / -
<b>respond code</b>	
Follow Up/Description	-
Follow Up 2/Reason	-
<b>Technician's Comments (Internal)</b>	
-	



(no filter active)

OrdNo: 6800000020526 Type: Service Order Status: transferred | -

Overview | Order Items | Service Items | Roles | Log/Attachments | History | Errorlist | Checklists | Qualification | Tasks

in Equipment(1) - 11484001USA W4840 LC Washer Checklist Log Print

Product/Order	Type	Date	Status
W4840 LC Washer ...		7/3/2007	
6800000020526(1)	Service Or...	10/28/2010	transferred
6800000060722(1)	Enquiry Or...	4/7/2011	completed
6800000062830(1)	Enquiry Or...	4/15/2011	completed
68CP000002511	Residential	6/2/2011	processed

<b>Order</b>	
Type / OrdNo / ExtOrdNo	Enquiry Order / 6800000060722 / -
Status / MatStat / InvStatus	completed / - / open
InvType / InvSubType / Price	4 - To be invoiced / 0001 - Repair / 0.00 USD
Created / Closed / InvDate	4/7/2011 / 4/7/2011 / -
InvNo / InvNoRef / OrdNoRef	6800060715 / - / -
<b>Next activity</b>	
Office User	Closed By Phone / Care Products Recommended
<b>Error Description</b>	
Sym1	3 - Noises / Odors
Sym2	X - Other noises / odors
FaultCode	
Condition	
Add. Info	Customer stated that the unit has a very foul odor and that the unit has a bunch of build up. I sent the customner some washing machine cleaner foc as goodwill in asw.
<b>Product</b>	
ArtNo / ModelNo	11484001USA / W4840
ModelDesc	W4840 LC Washer
Rem	W4840 LC WASHER
PGrp / PType	Washing machines / -
SerialNo	85458327
PurchDate	7/3/2007
<b>Activities completed</b>	

Overview	Order Items	Service Items	Roles	Log/Attachments	History	Errorlist	Checklists	Qualification	Tasks
in <input type="text" value="Equipment(1) - 11484001USA W4840 LC Washer"/> <input type="button" value="Checklist"/> <input type="button" value="Log"/> <input type="button" value="Print"/>									
Product/Order	Type	Date	Status						
W4840 LC Washer ...		7/3/2007							
6800000020526(1)	Service Or...	10/28/2010	transferred						
6800000060722(1)	Enquiry Or...	4/7/2011	completed						
6800000062830(1)	Enquiry Or...	4/15/2011	completed						
68CP000002511	Residential	6/2/2011	processed						
				<b>Order</b> Type / OrdNo / ExtOrdNo      Enquiry Order / 6800000062830 / - Status / MatStat / InvStatus      completed / - / open InvType / InvSubType / Price      4 - To be invoiced / 0001 - Repair / 0.00 USD Created / Closed / InvDate      4/15/2011 / 4/15/2011 / - InvNo / InvNoRef / OrdNoRef      6800062824 / - / - <b>Next activity</b> Office User      Closed By Phone / Care & Maintenance Advice Given <b>Error Description</b> Sym1      1 - Function Sym2      X - Other functional failure FaultCode Condition Add. Info      Customer called stating that he was sent dishwasher cleaner instead of washer cleaner. Sending correct product f.o.c. as courtesy, on asw order #4195005. <b>Product</b> ArtNo / ModelNo      11484001USA / W4840 ModelDesc      W4840 LC Washer Rem      W4840 LC WASHER PGrp / PType      Washing machines / - SerialNo      85458327 PurchDate      7/3/2007 <b>Activities completed</b>					






















Overview	Order Items	Service Items	Roles	Log/Attachments	History	Errorlist	Checklists	Qualification	Tasks
in <input type="text" value="Equipment(1) - 11484001USA W4840 LC Washer"/> <input type="button" value="Checklist"/> <input type="button" value="Log"/> <input type="button" value="Print"/>									
Product/Order	Type	Date	Status						
W4840 LC Washer ...		7/3/2007		Contacts					
6800000020526(1)	Service Or...	10/28/2010	transferred	Contact Type / Type					
6800000060722(1)	Enquiry Or...	4/7/2011	completed	Contact Number / Status					
6800000062830(1)	Enquiry Or...	4/15/2011	completed	Complaint Overview and Resolution					
68CP000002511	Residential	6/2/2011	processed	Closure Time / Time of acceptance					
				Last contact / initiates					
				Follow Up					
				Reasons for contact					
				Field Service / Customer Unhappy With Repair					

In... Order Number		Overview   Order Items   Service Items   Roles   Log/Attachments   History   Errorlist   Checklists   Qualification   Tasks																																																		
1	68000001056	in Equipment(1) - 11484001USA W4840 LC Washer																																																		
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6800000105637(1)	Service Order	9/21/2011	comple...
6800000212325(1)	Service Order	10/1/2012	comple...
68CP000002511	Residential	6/2/2011	Closed

<b>Order</b>			
Type / OrdNo / ExtOrdNo	Service Order / 6800000105637 / -		
Status / MatStat / InvStatus	completed / booked / Invoice sent to IBS		
InvType / InvSubType / Price	4 - Billable Call / 0001 - Repair / 175.00 USD		
Created / Closed / InvDate	9/21/2011 / 10/3/2011 / 10/4/2011		
InvNo / InvNoRef / OrdNoRef	6800105692 / - / -		
<b>Next activity</b>			
Mobile User	none / -		
<b>Error Description</b>			
Sym1	1 - Function		
Sym2	1 - No Function		
FaultCode			
Condition			
Add. Info	Customer is reporing that she is getting a technical fault error mid cycle. she would like a tech to hook up MDU and run cycle and see what is going on with the machine.		
*** Customer is aware that call is billable**			
<b>Product</b>			
ArtNo / ModelNo	11484001USA / W4840		
ModelDesc	W4840 LC Washer		
Rem	W4840 LC WASHER		
PGrp / PType	Washing machines / -		
SerialNo	85458327		
PurchDate	7/3/2007		
<b>Activities completed</b>			
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<b>Engineer</b>			
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